

IMPLEMENTATION TEAM MEETING NOTES

November 27, 1996, Noon-4 p.m.
NATIONAL MARINE FISHERIES SERVICE OFFICES
PORTLAND, OREGON

I. Greeting and Introductions.

The November 27 meeting of the Implementation Team, held at the National Marine Fisheries Service's offices in Portland, Oregon, was chaired by John Palensky and Donna Darm of NMFS. The agenda for the November 27 meeting and a list of attendees are attached as Enclosures A and B. The following is a summary (not a verbatim transcript) of items discussed at the meeting, together with actions taken on those items.

II. Discussion of Rules and Procedures. Today's meeting is essentially a work group session to work through the draft rules and procedures document prior to the December 5 meeting of the full Implementation Team, said Palensky. The following is a legislative markup of the draft Rules and Procedures document, with any sections upon which consensus could not be reached [bracketed], and with the revisions agreed to during the meeting underlined. Deletions are marked with brackets [].

REGIONAL ORGANIZATION (RO)

Executive Committee, Implementation Team and Technical Teams, COE
RULES AND PROCEDURES

I. Purpose and Scope

Initially, the Organization provides an intergovernmental forum for regional discussions and decisions on operation and system configuration of the Federal Columbia River Power System (FCRPS), with the goal of developing consensus among members. It is a forum for federal decision-makers to consult with state and tribal sovereigns in the Columbia River Basin on federal decisions, and for federal decisionmakers to explain the bases for their decisions. The focus of the Organization is implementation of the NMFS Biological Opinion on Operation of the FCRPS [and on funding matters related to FCRPS operations and configuration contained in the Bonneville Budget Agreement], but the Organization will consider all relevant aspects of hydropower operations and system configuration as appropriate. [The Implementation Organization will ensure that the Fish and Wildlife Program of the Northwest Power Planning Council is taken into consideration

to the fullest extent practicable]. The members may agree in the future to expand the scope of issues considered by the Organization beyond hydropower.

II. Organization.

The Organization is hierarchical and will consist of a senior policy body known as the Executive Committee, a senior program managers' body known as the Implementation Team, and various technical teams and work groups. The technical teams will include a Technical Management Team, a Dissolved Gas Team, a System Configuration Team, a PATH workgroup, an integrated Scientific Review Team and such ad hoc technical teams and work groups as the Implementation Team may deem necessary from time to time to address specific issues. Appendix A depicts the relationship among the Executive Committee, implementation Team and Technical Teams, and between the Organization and other regional entities and processes.

III. Goals.

- [a) To promote fulfillment of related federal trust responsibilities to Columbia Basin Indian tribes.]
- b) To ensure the broadest possible technical and policy participation in federal planning, funding and implementation decisions regarding operation and configuration of the FCRPS.
- c) To develop agreement and resolve disputes on operations to be implemented by the federal hydropower operating agencies and other actions related to FCRPS operations and system configuration.
- d) When agreement is not reached, to ensure that the bases for federal decisions are fully explained.
- e) To ensure that the decisionmaking process for operations and system configuration is open, and that the decisions of the Organization are fully explained.
- f) To promote coordination between implementation of the NMFS and USFWS Biological Opinions and actions taken under other related regional plans and fora to restore Columbia River Basin fish [].
- g) To take into account, to the fullest extent practicable, the Fish and Wildlife Program of the Northwest Power Planning Council.

[]

IV. Membership. OPTION 1

[Membership of all bodies of the Organization is open to state and tribal sovereigns with management authority over fish and wildlife resources in the Columbia River Basin, including Alaska, the National Marine Fisheries Service, U.S. Fish & Wildlife Service, Bonneville Power Administration, U.S. Army Corps of Engineers, Bureau of

Reclamation, Northwest Power Planning Council, Idaho Power Company and the Mid-Columbia Public Utility Districts.]

IV. Membership OPTION 2

Membership of all bodies of the Organization is open to state and tribal sovereigns with management authority over fish and wildlife resources in the Columbia River Basin, [including Alaska,] the National Marine Fisheries Service, U.S. Fish & Wildlife Service, Bonneville Power Administration, U.S. Army Corps of Engineers, Bureau of Reclamation and the Northwest Power Planning Council. Ex officio membership is open to the Idaho Power Company, Mid-Columbia Public Utility Districts [and the State of Alaska].

IV Membership OPTION 3

a) Executive Committee

Membership of all bodies of the Organization is open to state and tribal sovereigns with management authority over fish and wildlife resources in the Columbia River Basin, [including Alaska.] Federal members include the National Marine Fisheries Service and U.S. Fish & Wildlife Service. Ex officio membership is open to the Northwest Power Planning Council, Bonneville Power Administration, the U.S. Army Corps of Engineers, the Bureau of Reclamation, [Alaska,] Idaho Power Company and the Mid-Columbia Public Utility Districts. Ex officio members may participate fully in the activities of the Organization except that they may not [vote].

b) Implementation Team

[Membership on the Implementation Team is open to all members of the Executive Committee. Ex officio members of the Executive Committee may vote on the Implementation Team except on matters involving dispute resolution.]

c) Technical Teams

Membership on the Technical Teams is open to all members of the Executive Committee. Ex officio members of the Executive Committee may vote on all matters before the technical teams.

V. Participation and Representation

a) Members of a body of the Organization may participate, through designated representatives or their alternates, in all discussions of that body; present proposals; register objection, concurrence or abstention on decisions before the body; and request that a decision be elevated to the next level. The members will make efforts to enable all representatives to have a meaningful opportunity to participate in the work of the Organization.

b) Ex officio members of a body of the Organization may participate, through designated representatives or their alternates, in all discussions of that body and may present proposals.

c) All members [and ex officio members] of any body of the Organization must be represented by a designated representative or alternate in order to participate.

d) A list of designated representatives and alternates, where applicable, will be maintained at the offices of the Columbia Basin Fish & Wildlife Authority and at NMFS's office in Portland.

VI. Roles and Activities of the Implementation Team

a) General

1. Maintain ongoing oversight of the Technical Management Team (TMT), System Configuration Team (SCT), PATH, Integrated Scientific Review Team (ISRT) and Dissolved Gas Team (DGT) activities.

2. Act on behalf of the Executive Committee in developing policy guidelines and resolving disputes related to the operation and configuration of the hydrosystem.

b) Dispute Resolution

1. Resolve weekly in-season management disputes elevated from the TMT.

2. Address longer-term in-season management policy issues related to the deliberations of the TMT, SCT or DGT.

3. Define issues for further investigation/deliberation by a technical committee, the Independent Scientific Advisory Board or Implementation Team ad hoc subcommittees.

c) Planning

1. Provide direction to the PATH in developing scope, priorities and schedule of activities

2. Provide a forum for participants and public to address new and ongoing policy initiatives related to the operation and configuration of the hydrosystem

3. Provide policy guidance related to the implementation of the multi-year and annual workplans

d) Budget

1) Oversee the budget activities of the subordinate technical groups in the context of the BPA fish and wildlife financial MOA

2) Make recommendations on appropriate funding adjustments in the BPA fish and wildlife financial MOA categories related to operation and configuration of the hydrosystem (reimbursibles, capital expenditures and system operations).

VII. Conduct of Meetings

a) The meetings of the Executive Committee and Implementation Team will be chaired by the designated representative or alternate of the National Marine Fisheries Service. [Meetings will be facilitated when addressing contentious issues.] OR [a neutral third party chair selected by the members.] The meetings of the Technical Teams will be chaired by a member or members [selected by the Implementation Team]. The meetings of the Executive Committee and Implementation Team may be facilitated.

b) ☐ Only designated representatives or their alternates may register objection, concurrence or abstention on a decision or request that a decision be elevated to the next level. The Chair or a designated representative or alternate may call upon others to participate in discussions or make proposals. Only designated representatives or their alternates, identified at the start of the meeting, will be seated at the table.

c) When decisions are proposed for adoption by one of the bodies of the Organization, the Chair will identify, and the meeting notes will reflect, the member making the proposal. ☐ If an issue is to be decided, the Chair will poll the members for their concurrence, objection or abstention [and the basis for their position]. If an issue is to be postponed or is otherwise resolved, the Chair will identify the further action or the resolution. The meeting notes will reflect the above ☐.

d) Meeting agendas will be developed by the meeting Chair, with ☐ member input, and distributed to members at least one week prior to the meeting. Members wishing to include an issue for decision on the agenda should provide a statement of the issue to be distributed with the agenda. Materials to be handed out at the meeting will be faxed to members participating by phone before the meeting starts. The agenda will clearly identify decision items.

e) Meeting notes will be taken at all meetings, included with the agenda and materials for the next meeting, and approved at that meeting. Meeting notes will be available for inspection and copying at the offices of the Columbia Basin Fish and Wildlife Authority and at NMFS's offices in Portland.

f) Meetings of the bodies of the Organization will be open to the public. The Chair may call for public comment as appropriate during the meetings. Time will be reserved at the end of each meeting for members of the public to comment.

VIII. Reporting and Oversight.

- a) The Executive Committee will oversee the work of the Implementation Team, which will report on its activities at Executive Committee meetings
- b) The Implementation Team will oversee the work of the various technical teams and workgroups, which will report on their activities at Implementation Team meetings
- c) All bodies of the Organization will operate under the same rules of procedure, except that technical teams may propose special rules to address unique circumstances. The Implementation Team will approve any special rules of the technical teams.

IX. Frequency of Meetings.

- a) The Executive Committee will meet at least once quarterly. The Committee may convene via teleconference if appropriate to consider in-season management disputes (described in XI(f), below) elevated by the Implementation Team
- b) The Implementation Team will meet at least once monthly. During the smolt migration season, (generally April 1 through September 15) the Implementation Team will also meet weekly by conference call if necessary to resolve any disputes raised from the Technical Management Team
- c) The technical teams will meet as often as necessary to complete their work, or as requested by the Implementation Team
- d) At the request of a majority of members, as demonstrated by the proponents of the meeting, any of the bodies in the Organization may meet or conduct meetings in addition to those regularly scheduled.

XI. Decisionmaking and Dispute Resolution.

- a) Any ☐ member of any body of the Organization may make a technical proposal for decision ☐ by that body. Members will make all reasonable efforts to make technical proposals first in the appropriate technical team to allow for the technical issues to be fully developed. The ☐ Implementation Team or the Executive Committee may decline to entertain a technical proposal that has not been considered by the appropriate technical team.
- b) Any ☐ member of any body of the Organization may make a policy proposal for decision by that body. Members will make all reasonable efforts to ensure ☐ technical issues related to that decision have first been fully aired in the appropriate technical team and/or the Implementation Team. Members will make all reasonable efforts not

to raise policy issues that have already been decided at that level.

c) At the January Implementation Team meeting the Team will identify those implementation issues that can reasonably be decided in advance of the salmon and steelhead migration season. The Implementation Team will assign technical issues as appropriate to technical teams [] for advice or additional information. The Implementation Team will seek to decide as many implementation issues as possible in advance of the migration season and to elevate those issues that cannot be decided to the spring Executive Committee meeting. Members will make all reasonable efforts during the migration season not to raise issues that were raised in advance of the migration season. The Chair of the Implementation Team may decline to entertain such an issue.

d) Consensus is defined as lack of objection. The members will make all reasonable efforts to achieve consensus. When consensus cannot be achieved in a technical team or workgroups, the objecting member may ask that the issue be raised to the Implementation Team []. When consensus cannot be achieved among the members of the Implementation Team, the objecting member may request that the issue be raised to the Executive Committee. Rules for elevating issues are detailed in the section on decisionmaking and dispute resolution.

e) When consensus cannot be achieved in a technical team or workgroup, the federal agencies will state how they intend to proceed. A member objecting to the proposed action may ask that the issue be raised to the Implementation Team for resolution. The technical team will formulate a written description of the disagreement. When disputed issues are raised, any member may make presentations.

f) Members will make all reasonable efforts to present an issue for decision in writing at least two weeks prior to the meeting at which they request that the issue be addressed. The Chair may decline to entertain an issue that is not sufficiently well-defined to allow a decision to be made.

g) When consensus cannot be achieved in the Implementation Team, the federal agencies will state how they intend to proceed. If the decision is a weekly in-season management decision, the member with authority to make the decision will make the final decision. If the decision is other than an in-season management decision, a member objecting to a proposed federal action may request that the issue be raised to the Executive Committee. The Implementation Team will formulate a written statement of the issue. Any member may provide a statement in support of or opposition to the proposed action.

h) In the absence of consensus, the member with authority will make the final decision and explain that decision in writing before the next regularly scheduled meeting. Nothing in these rules alters the legal authorities of

any of the parties.

i) A quorum consists of those members' designated representative or their alternates, present and registering consent, objection or abstention to a decision made at a noticed meeting or conference call.

j) A member entity must be present through a designated representative or alternate to register consent, objection or abstention on a decision.

In terms of where to go from here, Palensky suggested that the unresolved passages in the document be left in brackets, but that all other textural markings be removed prior to the regularly-scheduled December 5 meeting of the IT. I'd like to say that I think this was really worth all the extra time and effort everyone put into today's meeting, and I'm glad we did it, said Montana's Tim Hall. With that, the meeting was adjourned.

IMPLEMENTATION TEAM MEETING ON RULES AND PROCEDURES

November 27, 1996

Portland, Oregon

List of Those Participating

Doug Marker NPPC
John Palensky NMFS
Alan Ruger BPA

On Phone:

Doug Arndt COE
Tom Cooney WDFW
Donna Darm NMFS
Tim Hall State of Montana
Keith Kutchins Shoshone-Bannock Tribes
Ron McKown USBR
Michael Powelson State of Oregon
Dennis Rohr Mid-Columbia PUDs
Joe Dos Santos Confederated Salish and Kootenai Tribes of the Flathead Reservation